

June 3, 2004

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

*Re: Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands – WT Docket No. 03-66*

*Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands – IB Docket No. 02-364*

*Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems – ET Docket No. 00-258*

**WRITTEN EX PARTE PRESENTATION**

Dear Ms. Dortch:

I am writing on behalf of the Wireless Communications Association International, Inc. ("WCA") to address certain issues associated with the Commission's consideration of relocating Multipoint Distribution Service ("MDS") channels 1 and 2 from the 2150-2162 MHz band. WCA understands that the Commission is giving serious consideration to the proposal submitted earlier this week by WATCH TV Company ("WTC") concerning that relocation. WCA fully endorses the WTC proposal, and is writing to provide the Commission with guidance on an issue that WTC did not discuss – the integration of MDS channels 1 and 2 once a market is transitioned to the new bandplan.

Most significantly, WTC calls for the reallocation of 6 MHz of spectrum presently allocated to the Mobile Satellite Service ("MSS") and for the Commission to retain the existing rules that govern the interference protection relationship between MDS/ITFS and MSS. WTC discusses in detail why it is essential for the Commission to provide sufficient spectrum outside

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the existing 2.5 GHz band to allow the Advanced Wireless Service (“AWS”) licensee responsible for migrating operations on MDS channels 1 and 2 in those markets that have not transitioned to the new bandplan. WCA agrees with the arguments made by WTC, and notes that unless there is sufficient spectrum below 2500 MHz for relocation independent of a transition of the market to the new bandplan, there likely will be markets where the AWS auction winner will find it extremely expensive and challenging to migrate existing MDS 1 and 2 users, and in some markets AWS E block operations may be prevented altogether because MDS 1 and 2 spectrum cannot be cleared. WCA understands that the Commission is currently contemplating reallocation of only 4 MHz of spectrum from MSS. That is not likely to be sufficient. Indeed, given that most equipment being developed for the band is predicated on at least 5 MHz of spectrum being available, any plan that provides less than 5 MHz of spectrum below 2500 MHz for relocation of MDS subscribers is likely doomed to fail. The net result of that failure would be to delay the relocation of MDS and, as a result, delay the inauguration of 3G and the other services that can be provided over AWS spectrum. WTC’s ex parte filing demonstrates conclusively that a reduction of the MSS band by even 6 MHz would not have a material adverse impact on the service (and would be a far cry better for MSS than if it loses the full 11 MHz that the Commission has placed “on the table”).

It must be stressed that WCA’s support for WTC’s plan is predicated on Commission adoption of WTC’s proposal that the interference protection obligations of MSS and MDS/ITFS *vis a vis* each other remain unchanged. Those rules, barely a year old, were carefully developed and, for the reasons set out by WTC, must remain in effect with the only change being a change in the boundary between the services. Under the rules in place today: (1) the MDS/ITFS licensee bordering MSS provides adjacent channel protection by meeting the general spectral mask set out in Section 74.936 of the Commission’s Rules and has no special obligations towards MSS; (2) the MSS licensee must provide a 2 GHz guardband between any ATC operations and the MDS/ITFS band; and (3) the MSS licensee must cure any interference that its ATC operations cause to nearby licensed services pursuant to Section 25.255. WTC correctly noted that no petition for reconsideration of this approach was filed by Globalstar, the sole remaining MSS licensee in the 2483.5-2500 MHz band, or anyone else. To assure that the 2494-2500 MHz band is useable for MDS, the Commission must retain these three provisions in any final rules. In other words, the only change in the relationship between MSS and MDS/ITFS should be a change in the boundary from 2500 MHz to 2494 MHz

Because WTC intends to exercise the MVPD opt-out, it expressed ambivalence as to how the Coalition Proposal bandplan should be revised to incorporate MDS channels 1 and 2 following a transition to the new bandplan. WCA has considered a variety of different approaches, and a consensus has developed that the best place for these channels once a transition has occurred is for MDS channel 1 to be at the lowest part of the bandplan, and for MDS channel 2 to be immediately between the K Band transition channels and channel E1. Because of the need to preserve the Middle Band Segment (“MBS”) at its proposed location,

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WCA recognizes that this approach will require elimination of the I channels and a reduction of the K Band to 4 MHz. WCA believes that, notwithstanding this reduction in the K Band, the MDS 2 licensee will be able to meet its interference protection obligations to the ITFS receive sites in the MBS through careful network design. To minimize any potential problem, however, WCA suggests that the Commission revise the order in which the channels appear in the MBS to read as follows: A4-B4-C4-D4-G4-F4-E4. By swapping G4 (which is always an ITFS station) with E4 (which is only occasionally a grandfathered ITFS station), the Commission will move G4 an additional 6 MHz from the Upper Band Segment ("UBS"). This will provide more certain protection to ITFS receive sites and will minimize the cost of providing that protection. Adoption of this proposal also leaves E4 on a current E group channel, thus reducing the costs of transitioning to the new bandplan.

WCA's rationale for recommending placement of MDS channels 1 and 2 at the bottom of the Lower Band Segment ("LBS") and the UBS, respectively, is driven by several considerations:

- First, it places MDS channel 1 at the same location post-transition as it will be pre-transition. Thus, WCA's proposal avoids further disruption of MDS channel 1 operations once they are migrated from their current location at 2150-2156 MHz. Having been forced to relocate from their current location to just below 2500 MHz, MDS channel 1 should not be required to make a second transition as part of the transition to the new bandplan.
- Second, it places MDS channel 2 adjacent to the other MDS channels in the band (the E, F and H Group channels), a result that would not obtain if the Commission placed MDS channels 1 and 2 at the upper end of each segment as currently being contemplated. Thus, for operators deploying time division duplex ("TDD") technology, WCA's proposal will provide an additional contiguous channel.
- Third, it places MDS channel 1 at the MDS/ITFS band boundary, where it will not have to be concerned that adjacent channel licensees on both sides may deploy non-synchronized technologies and demand compliance with the more stringent spectral mask proposed by the Coalition Proposal in such cases. With just 6 MHz of spectrum, it would be practically impossible for a licensee to meet that mask on both sides of its channel block and provide a viable service. While this is generally not an issue, since licensees will have 3 contiguous channels totaling 16.5 MHz, it would be of serious concern to a licensee of just 6 MHz.
- Fourth, WCA understands that the bandplan presently being considered calls for a reduction in the size of the J Band from 6 MHz to 4 MHz. Adoption of that proposal may require the licensee immediately adjacent to the J Band to back off its transmissions near the band edge in order to comply with the MBS protection requirements. With only 6 MHz of spectrum, the MDS channel 1 licensee will have no

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spectrum to spare for this de facto guardband. The D Block licensee, however, has 16.5 MHz of bandwidth, and thus can afford to provide any guardband that might be required to protect the MBS. Again, it is precisely because of potential guardband needs that channel blocks need to remain at 16.5 MHz.

- Fifth, placing MDS channels 1 and 2 at the lowest spot within the LBS and the UBS provides them with the most favorable propagation characteristics in the band. The record reflects that the propagation characteristics at 2.5 GHz are substantially inferior to those at 2.1 GHz. The Commission can mitigate the adverse impact somewhat by placing MDS channels 1 and 2 as low as possible in the 2.5 GHz band.

WCA also joins with WTC in calling for the adoption at this time of specific rules to govern the relocation of MDS channels 1 and 2 from the 2150-2162 MHz band. After three formal rounds of comments and significant ex parte input, there is no sound reason to continue the regulatory uncertainty surrounding the relocation of these channels. MDS licensees are making substantial concessions in agreeing to relocation to the 2.5 GHz band in the interest of expediting the relocation process. The Commission has before it all it needs to both find MDS licensees a new home *and* to establish the rules and policies that will allow them to move in.

Regardless of where MDS 1 and 2 are located in the new bandplan, it is absolutely essential that the Commission adopt the technical rules advanced by WCA and the ITFS leadership. As the record makes clear, those proposals were the result of extensive technical examination by WCA's Engineering Committee, and included input from all of the major vendors and system operators. In the process of developing a consensus, WCA was unable to provide some vendors with all that they wanted. However, the resulting proposal reasonably accommodates the needs of all vendors, and has been carefully designed to avoid providing any vendor with an unfair regulatory advantage over any other competing vendor. Given the widespread consensus in favor of the Coalition Proposal's technical rules, the Commission should look askance at any eleventh hour attempts by one vendor to undue them.

Finally, WCA urges the Commission not to impose a moratorium or other "freeze" on the filing of applications for new or modified stations between adoption of any new rules in WT Docket No. 03-66 and the effective date of those rules. There is substantial progress being made in wireless broadband deployment at the present time, particularly in rural areas, and a freeze will only result in a delay in the introduction of new services. Allowing applications to be filed and processed under the existing system until the new rules become effective will assure that the Commission not inadvertently delay new deployments.

Pursuant to Section 1.1206(b)(1), this letter is being filed through the Electronic Comment Filing System for inclusion in the public record of the above-reference proceeding. Should you have any questions regarding this filing, please contact the undersigned.

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Respectfully submitted,

/s/Paul J. Sinderbrand

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Counsel to the Wireless Communications  
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